

April 12, 2016

The Honorable Paul Ryan
Speaker
U.S. House of Representatives

The Honorable Nancy Pelosi
Democratic Leader
U.S. House of Representatives

Dear Speaker Ryan and Leader Pelosi:

We understand that floor consideration of H.R. 2666, the “No Rate Regulation of Broadband Internet Access Act,” is expected following a meeting of the House Committee on Rules this week.

The undersigned groups strongly urge you and your colleagues to vote against H.R. 2666, because it would block the Federal Communications Commission (FCC) from fulfilling its essential consumer-protection responsibilities. This would be disastrous for all of the people and businesses in America that use the Internet. Simply, H.R. 2666 would prevent the FCC from doing its job to protect the American people.

H.R. 2666’s overly broad definitions and undefined language would create extreme regulatory uncertainty. It would hamstring the FCC’s ability to carry out its congressionally-mandated responsibilities. The impacts of this legislation are wide-ranging and difficult to fully enumerate, given the broad definitions of “rates” and “regulation” in the bill, which conflict with legal precedent¹. Yet several harmful impacts are readily apparent.

First, it is clear that the bill is yet another attempt to undermine the FCC’s Open Internet Order and the principles of net neutrality. The Order “expressly eschew[ed] the future use of prescriptive, industry-wide rate regulation”² and the FCC forbore from the legal authorities that enable it to set rates³.

Although the FCC is not setting rates, stripping away its authority to review monopoly charges and other unjust and unreasonable business practices would harm everyone. It would especially harm the families and small businesses that rely on an affordable and open Internet to find jobs, do schoolwork, or reach consumers to compete in the 21st century global marketplace.

This legislation threatens the FCC’s ability to enforce merger conditions that provide low-cost broadband to disadvantaged communities, harming low-income Americans who already have limited broadband access, and further widening the digital divide.

It would give a free ride to companies currently imposing punitive data caps and introducing zero-rating schemes, which the FCC has rightly questioned and continues to investigate. And despite the bill’s imprecise references² to interconnection and paid prioritization, it would leave open the very real possibility that these companies may try to extort and extract additional payments from websites and

¹ http://www.supremecourt.gov/opinions/15pdf/14-840_k537.pdf

² https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-24A1.pdf

³ http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0322/DOC-338520A1.pdf

applications to reach their customers—even though the ability to download and upload the content of their choosing is exactly what broadband customers pay for.

By using the term interconnection in an undefined manner, H.R. 2666 also creates significant uncertainty about what, if anything, the FCC can do to protect the public from interconnection-related harms. Congestion at interconnection points—locations where the Internet's backbone infrastructure connects to last-mile providers such as Comcast and AT&T—has hurt consumers and online businesses in recent years, and this bill would leave the public vulnerable to those harms.

Lastly, the legislation would undermine the FCC's efforts to protect consumer privacy, including oversight of so-called "pay-for-privacy" plans that require customers to pay significant additional fees to their broadband provider to avoid having their online data collected and sold to third parties.

In sum, the broad definition of "regulation" in H.R. 2666 would make it difficult, if not impossible, for the FCC to review and then prohibit even clearly anti-competitive and anti-consumer actions by broadband companies. Under the bill, broadband providers could characterize any and every rule or determination the FCC makes as a "rate regulation" if it prevents these ISPs from charging abusive penalties or tolls.

Over four million Americans called for the FCC to protect an open Internet. It is time for members of Congress to stop sneak attacks that would allow big cable companies to break net neutrality rules without consequences. We strongly believe that the limited and inadequate exemptions in the current bill are neither credible nor sufficient. These limited exceptions for a small number of regulatory issues are not enough, as they simply create opportunities for companies to circumvent them.

Congress has made the FCC the guardian of the public interest. The Commission must be able to protect America's Internet users from unreasonable business practices.

It is unfortunate that the Energy & Commerce Committee Majority twice rejected proposed compromises that would have been harmonious with the FCC's decision not to set broadband rates, while ensuring the Commission still had the ability to protect consumers. Instead, this bill is little more than a wolf in sheep's clothing that would reduce the FCC's oversight abilities and strip away communications rights for hundreds of millions of Americans.

We respectfully urge you to vote against this bill to show your support for America's consumers and businesses that need the free and open Internet.

Sincerely,

18MillionRising.org
Alternate ROOTS
Arts & Democracy
Center for Media Justice (CMJ)
Center for Rural Strategies
Cogent Communications, Inc.

Color Of Change
Common Cause
Common Frequency
Consumer Action
Consumer Federation of America
Consumer Watchdog
Daily Kos
Demand Progress
Engine
Faithful Internet
Families for Freedom
Fight for the Future
Free Press Action Fund
FREE! Families Rally for Emancipation and Empowerment
Future of Music Coalition
Generation Justice
Global Action Project (G.A.P.)
Greenlining Institute
Human Rights Defense Center
Instituto de Educacion Popular del Sur de California (IDEPSCA)
Line Break Media
Martinez Street Women's Center
Media Action Center
Media Mobilizing Project
National Consumer Law Center, on behalf of its low-income clients
National Hispanic Media Coalition (NHMC)
New America's Open Technology Institute
Ohio Valley Environmental Coalition
Open Access Connections
People's Press Project
PhillyCAM
Progressive Technology Project
Prometheus Radio Project
Public Knowledge
School for Designing a Society
St. Paul Neighborhood Network (SPNN)
TURN
United Church of Christ, OC Inc.
Urbana-Champaign Independent Media Center
Voices for Racial Justice
Women Action Media
Working Films
Working Narratives
Writers Guild of America, West